WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

COMMITEE SUBSTITUTE

FOR

Senate Bill No. 529

(Senators Kessler, Sprouse, Minard, Plymale and Jenkins, original sponsors)

[Passed March 10, 2007; in effect ninety days from passage.]
AN ACT to amend and reenact §61-8B-16 of the Code of West Virginia, 1931, as amended, relating to forensic medical examinations; prohibiting any requirement that an alleged victim of a sexual offense must pay for the costs of a forensic medical examination, participate in the criminal justice system or cooperate with law enforcement in order to receive a forensic medical examination; eliminating certain reimbursement; and clarifying that licensed medical facilities may seek payment from the alleged victim or his or her insurer for services rendered other than the forensic medical examination.

Be it enacted by the Legislature of West Virginia:
That §61-8B-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-16. Payment for costs of forensic medical examination.

(a) When any person alleges that he or she has been the victim of an offense proscribed by this article, the West Virginia prosecuting attorneys institute shall pay to a licensed medical facility from the forensic medical examination fund the cost of the forensic medical examination for the alleged victim on the following conditions and in the following manner:

(1) The payment shall cover all reasonable, customary and usual costs of the forensic medical examination;

(2) The costs of additional nonforensic procedures performed by the licensed medical facility, including, but not limited to, prophylactic treatment, treatment of injuries, testing for pregnancy and testing for sexually transmitted diseases, may not be paid from the fund: Provided, That nothing in this section shall be construed to prohibit a licensed medical facility from seeking payment for services referred to in this subdivision from the alleged victim or his or her insurer, if any.

(3) The forensic medical examination must have been conducted within a reasonable time of the alleged violation;

(4) The licensed medical facility must apply for payment of the costs of a forensic medical examination from the fund within a reasonable time of the examination;

(5) The licensed medical facility shall certify that the forensic medical examination was performed and may submit a statement of charges to the West Virginia Prosecuting Attorneys Institute for payment from the fund.
(b) No licensed medical facility may collect the costs of a forensic medical examination from the alleged victim of a violation of this article or from the alleged victim's insurance coverage, if any.

(c) Nothing in this section shall be construed to require an alleged victim of sexual assault to participate in the criminal justice system or to cooperate with law enforcement in order to be provided a forensic medical examination pursuant to the provisions of this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within was approved this 28th Day of March, 2007.

Governor